

PART A

NOTICE OF PROPOSED RULEMAKING

TITLE 11. DEPARTMENT OF JUSTICE

NOTICE OF PROPOSED RULEMAKING

PROPOSED REGULATORY ACTION

NOTICE IS HEREBY GIVEN that the California Department of Justice (DOJ) proposes to amend and/or adopt the proposed regulations described below after considering all comments, objections and recommendations regarding the proposed action. DOJ proposes to amend sections 971, 972, 972.1, 972.2, 972.4, 972.5, 972.6, 972.7, 974, 974.1, 975, 975.1, 975.2, 975.3, and 975.5 in Title 11, Division I, Chapter 12.5 of the California Code of Regulations.

PUBLIC HEARING

DOJ will hold a public hearing starting at 10:00 a.m. on October 18, 2004, at the Sacramento Works Mark Sanders Complex at 2901 50th Street, Sacramento, California, 95817. The hearing room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed regulatory action described in the Informative Digest. The Department requests but does not require that persons who make oral comments also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his authorized representative, may submit written comments relevant to the proposed regulatory action to DOJ. The written comment period closes at 5:00 p.m. on October 18, 2004. The Department will consider only comments received by that time. Submit comments to:

Mail: Steven Teeters, Analyst
Department of Justice
Firearms Licensing and Permits Section
P.O. BOX 820200
Sacramento, CA 94203-0200

Email: Steven.Teeters@doj.ca.gov

Fax: (916) 227-3700

AUTHORITY AND REFERENCE

Pursuant to authority given by California Penal Code (PC) sections 12095, 12230, 12286, 12287 and 12305, DOJ plans to adopt the proposed and make amendments to existing regulations to make specific PC sections 12096, 12231, 12286, 12287 and 12305. Stats. 2002, ch. 1106 (Senate Bill

1312), Sec. 3, Stats. 2002, ch. 910 (Assembly Bill 2580), Sec. 3-7, are uncodified authority and reference sections that contributed to the development of these regulations.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

California PC sections 12096, 12231, 12250, 12286, 12287, 12305 and uncodified references originating from Stats. 2002, ch. 1106 (Senate Bill 1312), Sec. 3, and Stats. 2002, ch. 910 (Assembly Bill 2580), Sec. 3-7, give DOJ authority to issue permits and/or licenses for the possession, manufacture and sale of dangerous weapons if it does not endanger public safety. One objective of these amendments is to bring the associated permit/license fees in line with the increased costs of processing these permits/licenses. These fees have not been increased since 1990. The proposed fee increases are consistent with the legislatively approved annual cost-of-living adjustments for DOJ's budget. The proposed regulations will also introduce new fees associated to conducting inspections of dangerous weapon permit holders, necessary for the preservation of public peace, health and safety, and/or general welfare of the people of California. A secondary objective of the amendments is to clean up regulatory language that could result in confusion, make nonsubstantive wording changes, and to establish a more comprehensive record keeping requirement for permit/license holders.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: Fee structure will be more in line with actual costs.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other nondiscretionary cost or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or business: Limited. The proposed renewal fee increases are consistent with the legislatively approved cost-of-living adjustments for the Department's budgets. In addition, the fees charged have not been increased since 1991 representing a significant savings to these businesses over the last 12 years. Fees for inspections are new; however, inspections are mandated by law and fees are consistent with the cost of implementing the inspections.

Adoption of these regulations will not:

1. Create or eliminate jobs within California

2. Create new businesses or eliminate existing businesses within California; or
3. Affect the expansion of businesses currently doing business within California.

Significant affect on housing costs: None.

Significant affect on small businesses: Limited. The proposed renewal fee increases are consistent with the legislatively approved cost-of-living adjustments for the Department's budgets. In addition, the fees charged have not been increased since 1990, representing a significant savings to these businesses over the last 12 years. Fees for inspections are new, but the three tiered inspection fee structure is designed to charge the highest fees for those with the largest inventories and the lowest fees for those with the lower inventories. Equally important, however, those permittees/licensees with the greatest inventories tend to be "prop houses" who meet the needs of the entertainment industry by supplying them with dangerous weapons - a group that by definition is not considered a small business by the Administrative Procedures Act. The fee for other small business groups is tiered to be commensurate with their smaller inventories.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), DOJ must determine that no reasonable alternative that was considered or that has otherwise been identified and brought to the attention of DOJ would be either more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulations. Any persons interested in presenting statements or arguments with respect to alternatives to the proposed regulations may do so during the written comment period.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Steven Teeters, Analyst
Department of Justice
Firearms Licensing and Permits Section
P.O. BOX 820200
Sacramento, CA 94203-0200
Steven.Teeters@doj.ca.gov
Telephone (916) 227-0163
Fax (916) 227-3700

The backup contact person for these inquiries is:

Jeff Amador, Field Representative
Department of Justice
Firearms Licensing and Permits Section
P.O. BOX 820200
Sacramento, CA 94203-0200
Jeff.Amador@doj.ca.gov
Telephone (916) 227-3661
Fax (916) 227-3700

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

DOJ will have the entire rulemaking file available, upon completion, for inspection and copying throughout the rulemaking process. Please visit www.caag.state.ca.us/firearms/regs/index.html to obtain copies of the proposed text of the regulations, the initial statement of reasons, the modified text of the regulations, or other information upon which the rulemaking is based. Inquiries concerning the substance of the proposed regulations may be directed to Steven Teeters.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After considering all timely and relevant comments received, DOJ may adopt the proposed regulations substantially as described in this notice. If DOJ makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before DOJ adopts the regulations as advised. Please visit www.caag.state.ca.us/firearms/regs/index.html to obtain copies of any modified regulations. DOJ will accept written comments on the modified regulations for 15 days after the date on which they are made available. You can obtain a written copy of the documentation by contacting Steven Teeters.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon completion, the Final Statement of Reasons will be available at www.caag.state.ca.us/firearms/regs/index.html. You can obtain a written copy of the documentation by contacting Steven Teeters.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of associated documents can be obtained on the Internet upon their completion at our website at www.caag.state.ca.us/firearms/regs/index.html.